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 INC., SHINHAN DIAMOND
 INDUSTRIAL CO., LTD., and DITEQ
 CORPORATION

19 DR. JAMES SUNG and DIAMIND
 20 USA, LLC,
 21 Plaintiffs,
 22 v.
 23 SHINHAN DIAMOND AMERICA,
 24 INC., SHINHAN DIAMOND
 25 INDUSTRIAL CO., LTD., and DITEQ
 26 CORPORATION,

27 Defendants.
 28

Case No.: 2:14-CV-00530 MWF (Ex)

Hon. Michael W. Fitzgerald

[PROPOSED] STIPULATED
 PROTECTIVE ORDER
 GOVERNING WRITTEN
 DISCOVERY, ELECTRONIC
 DISCOVERY AND DEPOSITION
 TESTIMONY

29 Plaintiffs Dr. James Sung and DiaMind USA, LLC ("Plaintiffs") and
 30 Defendants Shinhان Diamond Industrial Co., Ltd., Shinhан Diamond America,
 31 Inc. and Diteq Corporation (collectively "Defendants") (collectively the
 32 "Parties"), by and through their respective counsel of record, hereby submit their

1 [Proposed] Stipulated Protective Order Governing Written Discovery, Electronic
2 Discovery, and Deposition Testimony.

3 1. **PURPOSES AND LIMITATIONS**

4 Disclosure and discovery activity in this action are likely to involve
5 production of confidential, proprietary, or private information for which special
6 protection from public disclosure and from use for any purpose other than
7 prosecuting this litigation may be warranted. Accordingly, the Parties hereby
8 stipulate to and petition the court to enter the following Stipulated Protective
9 Order. The Parties acknowledge that this Order does not confer blanket
10 protections on all disclosures or responses to discovery and that the protection it
11 affords from public disclosure and use extends only to the limited information or
12 items that are entitled to confidential treatment under the applicable legal
13 principles.

14 2. **DEFINITIONS**

15 2.1 **Action:** the instant litigation, *Dr. James Sung, et al. v. Shinhan*
16 *Diamond Industrial Co., Ltd., et al.*, Case No. 14-cv-00530-MWF (Ex) (C.D.
17 Cal.).

18 2.2 **Party:** any party to this Action, including all of such party's officers,
19 directors, employees, consultants, trustees, authorized agents, Experts, House
20 Counsel, and Outside Counsel (and their respective support staffs).

21 2.3 **Disclosure or Discovery Material:** all items or information,
22 regardless of the medium or manner generated, stored, or maintained (including,
23 among other things, testimony, transcripts, or tangible things) that are produced or
24 generated in disclosures or responses to discovery in this matter.

25 2.4 **"Confidential" Information or Items:** information (regardless of how
26 generated, stored, or maintained) or tangible things that qualify for protection
27 under standards developed under Fed. R. Civ. P. 26(c), including information that
28 a Designating Party believes to be of a proprietary business or technical nature

1 and not readily available to competitors, potential competitors, and/or other third
2 parties.

3 2.5 “Highly Confidential—Attorneys’ Eyes Only” Information or Items:
4 extremely sensitive “Confidential” information or items the disclosure of which
5 would create a substantial risk of serious harm that could not be avoided by less
6 restrictive means. Such information may fall into one or more of the following
7 categories: business plans, business development, trade secrets, market analysis,
8 competitor analysis, customer information, vendor information, internal
9 financial/accounting information, operations information, distributor agreements,
10 license agreements, development agreements, sales agreements, pricing
11 information, cost information, and information regarding business relationships
12 with third parties.

13 2.6 “Highly Confidential—Prosecution Bar” Information or Items:
14 extremely sensitive technical information or items, including without limitation,
15 research and development materials, product designs, engineering or technical
16 information, non-public product specifications, software, production or
17 manufacturing information, and other non-public technical information.

18 2.7 Receiving Party: a Party that receives Disclosure or Discovery
19 Material from a Producing Party.

20 2.8 Producing Party: a Party or non-party that produces Disclosure or
21 Discovery Material in this Action.

22 2.9 Designating Party: a Party or non-party that designates Disclosure or
23 Discovery Material as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL—
24 ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL—
25 PROSECUTION BAR.”

26 2.10 Challenging Party: a Party or non-party that challenges the
27 designation of information or items under this Order.

28

1 2.11 Protected Material: any Disclosure or Discovery Material that is
2 designated as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL—
3 ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL—
4 PROSECUTION BAR.”

5 2.12 Outside Counsel: attorneys who are not employees of a Party but
6 who are retained to represent or advise a Party in this Action.

7 2.13 House Counsel: attorneys who are employees of a Party.

8 2.14 Counsel (without qualifier): Outside Counsel and House Counsel (as
9 well as their support staffs).

10 2.15 Expert: a person with specialized knowledge or experience in a
11 matter pertinent to the Action who has been retained by a Party or its Counsel to
12 serve as an expert witness or as a consultant in this Action and who is not a past
13 or a current employee of a Party or of a competitor of a Party and who, at the time
14 of retention, is not anticipated to become an employee of a Party or a competitor
15 of a Party.

16 2.16 Professional Vendors: persons or entities that provide litigation
17 support services (e.g., photocopying; videotaping; translating; preparing exhibits
18 or demonstrations; organizing, storing, retrieving data in any form or medium;
19 jury consultation services; trial presentation services, etc.) and their employees
20 and subcontractors.

21 3. SCOPE

22 The protections conferred by this Protective Order cover not only Protected
23 Material (as defined above), but also any information copied or extracted
24 therefrom, as well as all copies, excerpts, summaries, or compilations thereof,
25 plus testimony, conversations, or presentations by Parties or Counsel to or in court
26 or in other settings that might reveal Protected Material.

27

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1 4. DURATION

2 Even after final disposition of this litigation, the confidentiality obligations
3 imposed by this Order shall remain in effect until a Designating Party agrees
4 otherwise in writing or a court order otherwise directs. Final disposition shall be
5 deemed to be the later of (1) dismissal of all claims and defenses in this action,
6 with or without prejudice; or (2) final judgment herein after the completion and
7 exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,
8 including the time limits for filing any motions or applications for extension of
9 time pursuant to applicable law.

10 5. DESIGNATING PROTECTED MATERIAL

11 5.1 Exercise of Restraint and Care in Designating Material for
12 Protection. Each Party or Non-Party that designates information or items for
13 protection under this Order must take care to limit any such designation to
14 specific material that qualifies under the appropriate standards. To the extent it is
15 practical to do so, the Designating Party must designate for protection only those
16 parts of material, documents, items, or oral or written communications that
17 qualify – so that other portions of the material, documents, items, or
18 communications for which protection is not warranted are not swept unjustifiably
19 within the ambit of this Order.

20 Mass, indiscriminate, or routinized designations are prohibited.
21 Designations that are shown to be clearly unjustified or that have been made for
22 an improper purpose (e.g., to unnecessarily encumber or retard the case
23 development process or to impose unnecessary expenses and burdens on other
24 parties) expose the Designating Party to sanctions.

25 If it comes to a Party's or a non-party's attention that information or items
26 that it designated for protection do not qualify for protection at all or do not
27 qualify for the level of protection initially asserted, that Designating Party must
28 promptly notify all other parties that it is withdrawing the mistaken designation.

1 5.2 Manner and Timing of Designations. Except as otherwise provided
2 in this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
3 stipulated or ordered, material that qualifies for protection under this Order must
4 be clearly so designated before the material is disclosed or produced.

5 Designation in conformity with this Order requires:

6 (a) for information in documentary form (apart from transcripts of
7 depositions or other pretrial or trial proceedings), that the Producing Party affix
8 the legend “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL—ATTORNEYS’
9 EYES ONLY,” or “HIGHLY CONFIDENTIAL—PROSECUTION BAR” to
10 each page that contains Protected Material.

11 A Party or non-party that makes original documents or materials available
12 for inspection need not designate them for protection until after the inspecting
13 Party has indicated which material it would like copied and produced. During the
14 inspection and before the designation, all of the material made available for
15 inspection shall be deemed “HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES
16 ONLY.” After the inspecting Party has identified the documents it wants copied
17 and produced, the Producing Party must determine which documents, or portions
18 thereof, qualify for protection under this Order. Then, before producing the
19 specified documents, the Producing Party must affix the appropriate legend
20 (“CONFIDENTIAL,” “HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES
21 ONLY,” or “HIGHLY CONFIDENTIAL—PROSECUTION BAR”) to each page
22 that contains Protected Material.

23 (b) for testimony given in deposition or in other pretrial or trial
24 proceedings, that the Party or non-party offering or sponsoring the testimony
25 identify on the record, before the close of the deposition, hearing, or other
26 proceeding (where practicable), all protected testimony and specify any portions
27 of the testimony that qualify as “CONFIDENTIAL,” “HIGHLY
28 CONFIDENTIAL—ATTORNEYS’ EYES ONLY,” or “HIGHLY

1 CONFIDENTIAL—PROSECUTION BAR.” Alternatively, the Party or non-
2 party offering or sponsoring testimony may designate portions of the testimony as
3 “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES
4 ONLY,” or “HIGHLY CONFIDENTIAL—PROSECUTION BAR” within 10
5 days from the receipt of the transcript by the Party or non-party and provide its
6 designation in writing to all other Parties. Until the expiration of the 10-day
7 period, the entire transcript shall be treated as “HIGHLY CONFIDENTIAL—
8 ATTORNEYS’ EYES ONLY.” Subsequently, only those portions of the
9 testimony designated for protection within the 10 days shall be covered by the
10 provisions of this Protective Order.

11 Transcript pages containing Protected Material must be separately bound
12 by the court reporter, who must affix to the top or bottom of each such page the
13 legend “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL—ATTORNEYS’
14 EYES ONLY,” or “HIGHLY CONFIDENTIAL—PROSECUTION BAR,” as
15 instructed by the Party or non-party offering or sponsoring the witness or
16 presenting the testimony.

17 (c) for information produced in some form other than documentary
18 and for any other tangible items, that the Producing Party affix in a prominent
19 place on the exterior of the container or containers in which the information or
20 item is stored the legend “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL—
21 ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL—
22 PROSECUTION BAR.” If only a portion or portions of the information or item
23 warrant protection, the Producing Party, to the extent practicable, shall identify
24 the protected portion(s) and specify the level of protection being asserted.

25 5.3 Inadvertent Failures to Designate. If corrected, an inadvertent failure
26 to designate qualified information or items as “CONFIDENTIAL,” “HIGHLY
27 CONFIDENTIAL—ATTORNEYS’ EYES ONLY,” or “HIGHLY
28 CONFIDENTIAL—PROSECUTION BAR” does not, standing alone, waive the

1 Designating Party's right to secure protection under this Order for such material.
2 If material is appropriately designated as "CONFIDENTIAL," "HIGHLY
3 CONFIDENTIAL—ATTORNEYS' EYES ONLY," or "HIGHLY
4 CONFIDENTIAL—PROSECUTION BAR" after the material was initially
5 produced, the Receiving Party, on notification of the designation, must make
6 reasonable efforts to assure that the material is treated in accordance with the
7 provisions of this Order.

8 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

9 6.1 Timing of Challenges. Any Party or non-party may challenge a
10 designation of confidentiality at any time. Unless a prompt challenge to a
11 Designating Party's confidentiality designation is necessary to avoid foreseeable,
12 substantial unfairness, unnecessary economic burdens, or a significant disruption
13 or delay of the litigation, a Party does not waive its right to challenge a
14 confidentiality designation by electing not to mount a challenge promptly after the
15 original designation is disclosed.

16 6.2 Meet and Confer. A Party that elects to initiate a challenge to a
17 Designating Party's confidentiality designation must do so in good faith and must
18 begin the process by conferring directly (in voice-to-voice dialogue; other forms
19 of communication are not sufficient) with counsel for the Designating Party. In
20 conferring, the challenging Party must explain the basis for its belief that the
21 confidentiality designation was not proper and must give the Designating Party an
22 opportunity to review the designated material, to reconsider the circumstances,
23 and, if no change in designation is offered, to explain the basis for the chosen
24 designation. A challenging Party may proceed to the next stage of the challenge
25 process only if it has engaged in this meet and confer process first.

26 6.3 Judicial Intervention. A Party that elects to press a challenge to a
27 confidentiality designation after considering the justification offered by the
28 Designating Party may file and serve a motion under Civil Local Rule 7 (and in

1 compliance with Civil Local Rule 37.1, if applicable) that identifies the
2 challenged material and sets forth in detail the basis for the challenge. Each such
3 motion must be accompanied by a competent declaration that affirms that the
4 movant has complied with the meet and confer requirements imposed in the
5 preceding paragraph.

6 The burden of persuasion in any such challenge proceeding shall be on the
7 Designating Party. Until the Court rules on the challenge, all Parties shall
8 continue to afford the material in question the level of protection to which it is
9 entitled under the Producing Party's designation.

10 7. **ACCESS TO AND USE OF PROTECTED MATERIAL**

11 7.1 **Basic Principles.** A Receiving Party may use Protected Material that
12 is disclosed or produced by another Party or by a non-party in connection with
13 this Action only for prosecuting, defending, or attempting to settle this Action. In
14 no event shall any person receiving Protected Material use it for commercial or
15 competitive purposes, including any use in the preparation and/or prosecution of
16 any new or pending patent application, continuation, divisional, renewal,
17 substitute, or convention application, or any portion thereof, whether design or
18 utility, whether in the United States or abroad, or make any public disclosure of
19 the contents thereof.

20 Protected Material may be disclosed only to the categories of persons and
21 under the conditions described in this Order. When the Action has been
22 terminated, a Receiving Party must comply with the provisions of Section 12,
23 below (FINAL DISPOSITION).

24 Protected Material must be stored and maintained by a Receiving Party at a
25 location and in a secure manner that ensures that access is limited to the persons
26 authorized under this Order.

27 7.2 **Disclosure of "CONFIDENTIAL" Information or Items.** Unless
28 otherwise ordered by the court or permitted in writing by the Designating Party, a

1 Receiving Party may disclose any information or item designated
2 "CONFIDENTIAL" only to:

3 (a) the Receiving Party's Outside Counsel of Record in this action, as
4 well as employees of said Outside Counsel of Record to whom it is reasonably
5 necessary to disclose the information for this litigation;

6 (b) the officers, directors, and employees (including House Counsel)
7 of the Receiving Party to whom disclosure is reasonably necessary for the
8 Receiving Party's preparation and pursuit of claims and/or defenses in this Action
9 and who have signed the "Acknowledgment and Agreement to Be Bound"
10 (Exhibit A);

11 (c) Experts of the Receiving Party (1) to whom disclosure is
12 reasonably necessary for this Action, (2) who have signed the "Acknowledgment
13 and Agreement to Be Bound" (Exhibit A), and (3) as to whom the procedures set
14 forth in Section 7.5, below, have been followed;

15 (d) the court and its personnel;

16 (e) court reporters and their staff that transcribe proceedings in this
17 Action;

18 (f) professional jury or trial consultants, and Professional Vendors to
19 whom disclosure is reasonably necessary for this litigation and who have signed
20 the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

21 (g) during their depositions, employees of the Designating Party; and

22 (h) the author or recipient of a document containing the information
23 or a custodian or other person who otherwise possessed or knew the information.

24 **7.3 Disclosure of "HIGHLY CONFIDENTIAL—ATTORNEYS' EYES**
25 **ONLY" Information or Items.** Unless otherwise ordered by the court or permitted
26 in writing by the Designating Party, a Receiving Party may disclose any
27 information or item designated "HIGHLY CONFIDENTIAL—ATTORNEYS'
28 EYES ONLY" only to:

(b) Experts of the Receiving Party (1) to whom disclosure is reasonably necessary for this litigation, (2) who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A), and (3) as to whom the procedures set forth in paragraph 7.5, below, have been followed;

8 (c) the court and its personnel;

11 (e) professional jury or trial consultants, and Professional Vendors to
12 whom disclosure is reasonably necessary for this litigation and who have signed
13 the “Acknowledgment and Agreement to Be Bound” (Exhibit A); and

14 (f) during their depositions, employees of the Designating Party;

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information.

7.4 Disclosure of "HIGHLY CONFIDENTIAL—PROSECUTION"

18 BAR" Information or Items. Unless otherwise ordered by the court or permitted
19 in writing by the Designating Party, a Receiving Party may disclose any
20 information or item designated "HIGHLY CONFIDENTIAL—PROSECUTION
21 BAR" only to those persons identified in Paragraph 7.3 and who agree to be
22 bound by the restrictions of Paragraph 8, below.

23 7.5 Procedures for Approving or Objecting to Disclosure of

24 “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES
25 ONLY,” or “HIGHLY CONFIDENTIAL—PROSECUTION BAR” Information
26 or Items to Experts.

(a) Unless otherwise ordered by the Court or agreed in writing by the Designating Party, a Party that seeks to disclose to an Expert any information or

1 item that has been designated “CONFIDENTIAL,” “HIGHLY
2 CONFIDENTIAL—ATTORNEYS’ EYES ONLY,” or “HIGHLY
3 CONFIDENTIAL—PROSECUTION BAR” first must make a written request to
4 the Designating Party that (1) sets forth the full name of the Expert and the city
5 and state of his or her primary residence, (2) attaches a copy of the Expert’s
6 current resume, (3) identifies the Expert’s current employer(s), (4) identifies each
7 person or entity from whom the Expert has received compensation for work in his
8 or her areas of expertise or to whom the Expert has provided professional services
9 at any time during the preceding five years, and (5) identifies (by name and
10 number of the case, filing date, and location of the court or other body) any
11 dispute resolution proceeding in connection with which the Expert has provided
12 any professional services during the preceding five years.

13 (b) A Party that makes a request and provides the information
14 specified in the preceding paragraph may disclose the subject Protected Material
15 to the identified Expert unless, within seven court days of delivering the request,
16 the Party receives a written objection from the Designating Party. Any such
17 objection must set forth in detail the grounds on which it is based.

18 (c) A Party that receives a timely written objection must meet and
19 confer with the Designating Party (through direct voice-to-voice dialogue) to try
20 to resolve the matter by agreement. If no agreement is reached, the Party seeking
21 to make the disclosure to the Expert may file a motion as provided in Civil Local
22 Rule 7 (and in compliance with Civil Local Rule 37.1, if applicable) seeking
23 permission from the Court to do so. Any such motion must describe the
24 circumstances with specificity, set forth in detail the reasons for which the
25 disclosure to the Expert is reasonably necessary, assess the risk of harm that the
26 disclosure would entail and suggest any additional means that might be used to
27 reduce that risk. In addition, any such motion must be accompanied by a
28 competent declaration in which the movant describes the efforts made to resolve

1 the matter by agreement (i.e., the extent and the content of the meet and confer
2 discussions) and sets forth the reasons advanced by the Designating Party for its
3 refusal to approve the disclosure.

4 In any such proceeding, the Party opposing disclosure to the Expert shall
5 bear the burden of proving that the risk of harm that the disclosure would entail
6 (under the safeguards proposed) outweighs the Receiving Party's need to disclose
7 the Protected Material to its Expert.

8 **PROSECUTION BAR**

9 Absent written consent from the Producing Party, any individual who
10 receives or accesses "HIGHLY CONFIDENTIAL—PROSECUTION BAR"
11 information shall not be involved in the prosecution of patents or patent
12 applications relating to the manufacturing and design of diamond cutting tools,
13 including without limitation the patents asserted in this Action and any patent or
14 application claiming priority to or otherwise related to the patents asserted in this
15 action, before any foreign or domestic agency, including the United States Patent
16 and Trademark Office ("the Patent Office"). For purposes of this paragraph,
17 "prosecution" includes directly or indirectly drafting, amending, advising, or
18 otherwise affecting the scope or maintenance of patent claims. To avoid any
19 doubt, "prosecution" as used in this paragraph does not include representing a
20 party challenging a patent before a domestic or foreign agency (including, but not
21 limited to, a reissue protest, reexamination, *inter partes* review, or other post grant
22 review procedure). This Prosecution Bar shall begin when access to "HIGHLY
23 CONFIDENTIAL—PROSECUTION BAR" information is first received by the
24 affected individual and shall end two (2) years after final termination of this
25 action.

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1 9. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
2 IN OTHER LITIGATION

3 If a Receiving Party is served with a subpoena or an order issued in other
4 litigation that would compel disclosure of any information or items designated in
5 this Action as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL—
6 ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL—
7 PROSECUTION BAR,” the Receiving Party must so notify the Designating
8 Party, in writing immediately and in no event more than five court days after
9 receiving the subpoena or order. Such notification must include a copy of the
10 subpoena or court order.

11 The Receiving Party also must promptly inform in writing the Party who
12 caused the subpoena or order to issue in the other litigation that some or all the
13 material covered by the subpoena or order is the subject of this Protective Order.
14 In addition, the Receiving Party must deliver a copy of this Protective Order
15 promptly to the Party in the other action that caused the subpoena or order to
16 issue.

17 The purpose of imposing these duties is to alert the interested parties to the
18 existence of this Protective Order and to afford the Designating Party in this case
19 an opportunity to try to protect its confidentiality interests in the Court from
20 which the subpoena or order issued. The Designating Party shall bear the burdens
21 and the expenses of seeking protection in that Court of its confidential material—
22 and nothing in these provisions should be construed as authorizing or encouraging
23 a Receiving Party in this Action to disobey a lawful directive from another Court.

24 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

25 If a Receiving Party learns that, by inadvertence or otherwise, it has
26 disclosed Protected Material to any person or in any circumstance not authorized
27 under this Protective Order, the Receiving Party must immediately (a) notify in
28 writing the Designating Party of the unauthorized disclosures, (b) use its best

1 efforts to retrieve all copies of the Protected Material, (c) inform the person or
2 persons to whom unauthorized disclosures were made of all the terms of this
3 Order, and (d) request such person or persons to execute the "Acknowledgment
4 and Agreement to Be Bound" that is attached hereto as Exhibit A.

5 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
6 **PROTECTED MATERIAL**

7 11.1 Any production of documents subject to the work product doctrine,
8 the attorney-client privilege, the right of privacy, or any other applicable
9 privilege, shall not constitute a waiver of the protection or privilege, provided that
10 the Designating Party shall notify the Receiving Party in writing of such
11 protection or privilege promptly after the Designating Party discovers such
12 materials have been produced. After notification is received, the Receiving Party
13 shall within 5 business days return to the Designating Party all copies of such
14 documents or destroy them, and shall within 5 business days of notification
15 confirm in writing that all such copies have been returned or destroyed.

16 11.2. Nothing herein shall prevent the Receiving Party from challenging
17 the propriety of the privilege or protection claimed by promptly filing an
18 appropriate motion with the Court, but the Receiving Party shall not challenge the
19 propriety of the privilege or protection claimed on the grounds that the privilege
20 or protection was waived by production of the documents. Moreover, the
21 Challenging Party may not retain a copy of the purportedly inadvertently
22 produced materials while challenging the propriety of the privilege or protection
23 claimed.

24 **12. FINAL DISPOSITION**

25 Unless otherwise ordered or agreed in writing by the Producing Party,
26 within sixty days after the final termination of this Action, each Receiving Party
27 must return or destroy all Protected Material to the Producing Party. As used in
28 this subdivision, "all Protected Material" includes all copies, abstracts,

1 compilations, summaries or any other form of reproducing or capturing any of the
2 Protected Material. Whether the Protected Material is returned or destroyed, the
3 Receiving Party must submit a written certification to the Producing Party (and, if
4 not the same person or entity, to the Designating Party) by the sixty day deadline
5 that identifies (by category, where appropriate) all the Protected Material that was
6 returned or destroyed and that affirms that the Receiving Party has not retained
7 any copies, abstracts, compilations, summaries or other forms of reproducing or
8 capturing any of the Protected Material. Notwithstanding this provision, Outside
9 Counsel are entitled to retain an archival copy of all pleadings, motion papers,
10 transcripts, legal memoranda, correspondence or attorney work product, even if
11 such materials contain Protected Material. Any such archival copies that contain
12 or constitute Protected Material remain subject to this Protective Order as set forth
13 in Section 4 (DURATION), above.

14 13. MISCELLANEOUS

15 13.1 Right to Further Relief. Nothing in this Order abridges the right of
16 any person to seek its modification by the court in the future.

17 13.2 Right to Assert Other Objections. By stipulating to the entry of this
18 Protective Order no Party waives any right it otherwise would have to object to
19 disclosing or producing any information or item on any ground not addressed in
20 this Protective Order. Similarly, no Party waives any right to object on any
21 ground to use in evidence of any of the material covered by this Protective Order.

22 13.3 Filing Protected Material. Without written permission from the
23 Designating Party or a court order secured after appropriate notice to all interested
24 persons, a Party may not file in the public record in this Action any Protected
25 Material. If the Court orders, a Party may file the Protected Material under seal.

26 13.4 Discovery from Experts. Consistent with Federal Rules of Civil
27 Procedure 26(b)(3)(A) and (B), testifying Experts or consultants shall not be
28 subject to discovery of any draft report or draft declaration in this Action or other

1 cases and such draft reports or draft declarations, and notes or outlines for draft
2 reports or draft declarations, are also exempt from discovery. No discovery shall
3 be taken from any Expert or consultant who is not designated under Federal Rules
4 of Civil Procedure 26(a)(2) or who does not provide a declaration or testimony in
5 the Action except (1) to the extent that Expert or consultant has provided
6 information, opinions or other materials to an Expert who is designated under
7 Rule 26(a)(2) or who provides a declaration or testimony in the Action, who then
8 relies upon such information, opinions or other materials in forming his or her
9 opinions offered or to be offered in this Action; or (2) to the extent that Expert or
10 consultant provides information or opinions to the Court prior to that Expert's
11 formal disclosure pursuant to Rule 26(a)(2). The parties further stipulate that an
12 Expert or consultant's notes prepared in connection with his or her work on the
13 case shall not be discoverable.

14 No conversations or communications between Counsel and any Expert or
15 consultant will be subject to discovery unless the conversations or
16 communications are relied upon by such Expert or consultant in formulating
17 opinions that are presented in reports or trial or deposition testimony in this
18 Action. Drafts, communications and other information exempt from discovery
19 under this section shall be treated as attorney-work product for the purposes of
20 this Action and Protective Order and do not need to be logged. Notwithstanding
21 the foregoing, the Parties may seek discovery of an Expert's engagement
22 agreement, invoices submitted by the Expert, fees charged by the Expert, and
23 compensation received by the Expert.

24 All other materials and information that an Expert considered and/or relied
25 upon will be discoverable, to the extent otherwise permitted by Rule 26(a)(2).

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1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.
2

3 Dated: February 20, 2015
4

5 Respectfully submitted:
6

7 By: /s/ Julia Gilmore Gaughan
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23

IT IS SO ORDERED.

Dated: 2/20/15

Respectfully submitted:

By: /s/Bryan A. Kohm
Bryan A. Kohm

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DIAMOND AMERICA, INC. and
DITEQ CORPORATION

Charles F. Erick
United States Magistrate Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [print or type full name], of
4 _____ [print or type full address], declare under penalty of perjury
5 that I have read in its entirety and understand the Stipulated Protective Order that
6 was issued by the United States District Court for the Central District of
7 California on [date] in the case of _____ *Dr. James Sung, et al. v. Shinhan*
8 *Diamond Industrial Co., Ltd., et al.*, Case No. 14-cv-00530-MWF (Ex). I agree to
9 comply with and to be bound by all the terms of this Stipulated Protective Order
10 and I understand and acknowledge that failure to so comply could expose me to
11 sanctions and punishment in the nature of contempt. I solemnly promise that I
12 will not disclose in any manner any information or item that is subject to this
13 Stipulated Protective Order to any person or entity except in strict compliance
14 with the provisions of this Order.

15 I further agree to submit to the jurisdiction of the United States District
16 Court for the Central District of California for the purpose of enforcing the terms
17 of this Stipulated Protective Order, even if such enforcement proceedings occur
18 after termination of this action.

19 I hereby appoint _____ [print or type full name]
20 of _____ [print or type full address and
21 telephone number] as my California agent for service of process in connection
22 with this action or any proceedings related to enforcement of this Stipulated
23 Protective Order.

24
25 Date: _____

27 City and State where sworn and signed:

1 Printed name: _____

2 [printed name]

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4 Signature: _____

5 [signature]

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